

**REMARKS**

Claims 1 and 3-24 are pending in this application. All of the pending claims are rejected.

None of the claims are currently amended. Reconsideration is respectfully requested.

Claims 1, 3-10, 12-15, 17, and 19-24 are rejected under 35 U.S.C. 103(a) based on US 6,094,435 (Hoffman) in view of US 6,870,840 (Hill). With regard to independent claims 1, 13 and 20, the examiner now concedes that Hoffman fails to disclose selectively modifying priority in response to the destination parameter of the packet traffic when the type of packet traffic is unicast type, and selectively modifying the priority in response to a source parameter of the packet traffic when the type of packet traffic is multicast type. However, the examiner asserts that Hill discloses the limitations at figure 3, column 3, lines 44-51, column 4, lines 20-45 and 48-62. Because the examiner misconstrues Hill, Applicant respectfully traverses.

The passage and figure from Hill cited by the examiner merely describe and illustrate a lookup function. A similar example of a lookup function is described with reference to the queue fill logic in this application at page 8, lines 1-11, with reference to figure 2A. In both examples the QID examines the packet header to determine whether to allocate an entry in a particular priority queue based on the result of the lookup. However, a lookup function simply implements a decision that has already been made, i.e., it implements a priority level already assigned by another function. Figure 4 of this application illustrates the procedure for actually determining priority when storing an entry in an address resolution table. Note that the description of that figure at page 12, lines 3-7 states “priority or best effort queuing of unicast traffic is determined based on destination parameters (e.g., egress port, destination MAC address or destination IP address), while priority or best effort queuing of multicast traffic is determined based on source parameters (e.g., ingress port, source MAC address or source IP address).” In other words, the

priority is set when the entry is stored in the address resolution table. However, because such *a priori* priority decisions may sometimes yield an undesirable result, the present invention also includes dynamic priority modification as described at page 15, line 12 through page 16, line 9, with reference to figure 6. Note that the claims recite the dynamic priority modification feature, i.e., dynamically changing the predetermined priority level in response to existing conditions. It should therefore be understood that the lookup function cited by the examiner is not analogous to the recited limitations.

In addition to the distinction described above it should be noted that the passage and figure from Hill cited by the examiner fail to make any priority distinction based on whether the packet is unicast or multicast. Note that in figure 3 of Hill, step (361) summarily states that the QID defines the priority. No additional detail is provided in the specification. There is no suggestion that priority should be set **differently** depending on whether the packet is unicast or multicast as recited in the claims.

In addition to the two distinctions described above it should also be noted that the passage and figure from Hill cited by the examiner fail to make any priority determination based on destination parameters in the case of unicast packets, and source parameters in the case of multicast packets. Indeed, the examiner appears to have ignored or overlooked these limitations. Again, as described in the specification at page 12, lines 3-7, “priority or best effort queuing of unicast traffic is determined based on **destination parameters (e.g., egress port, destination MAC address or destination IP address)**, while priority or best effort queuing of multicast traffic is determined based on **source parameters (e.g., ingress port, source MAC address or source IP address)**.” (emphasis added) No such distinction is disclosed in Hill. Rather, Hill summarily states that priority is defined.

The distinguishing limitations discussed above are recited in the independent claims as follows. Claim 1 recites “when the type of packet traffic is unicast type, selectively modifying a priority of the traffic in response to a destination parameter of the packet traffic; and when the type of packet traffic is multicast type, selectively modifying the priority of the traffic in response to a source parameter of the packet traffic.” Claim 13 recites “modifying a priority of the packet traffic using parameter information associated with a type of packet traffic, wherein the type of packet traffic includes unicast and multicast traffic, and wherein source parameter information is used for multicast traffic and destination parameter information is used for unicast traffic.”

Claim 20 recites “selectively modifying a priority of the packet traffic using parameter information associated with a type of packet traffic, wherein source parameter information is associated with multicast type packet traffic and destination parameter information is associated with unicast type packet traffic.” Withdrawal of the rejections of claims 1, 13 and 20 is therefore requested.

Dependent claims 3-12, 14-19, and 21-24 further define the invention, and are allowable for the same reasons as their respective base claims. Note, for example, that claims 3, 4, 7 and 8 recite specific source and destination parameters in response to which priority is set. The passages cited by the Examiner in support of the rejections of those claims are no more relevant than the passages cited in support of the independent claims. For example, the Examiner cites column 11, lines 19-25 and 44-47 in support of the rejection of claim 3, which recites that source parameter includes a MAC address. However, the cited passages merely describe use of a MAC address in normal forwarding decisions, e.g., table lookups and output port identification. No suggestion is made of *setting priority in response to the source MAC address*. Similarly, claim 4 recites that the source parameter includes a source VLAN, and the passages cited by the

Examiner (column 9, lines 27-33 and column 11, lines 47-54) merely describe use of a VLAN ID in normal forwarding decisions, e.g., table lookups and output port identification. The Examiner cannot reasonably maintain that the mere existence of MAC addresses and VLAN IDs anticipates any and all uses of that information. Withdrawal of the rejections of claims 3-12, 14-19, and 21-24 is requested.

Claims 11, 16 and 18 are rejected under 35 U.S.C. 103(a) based on Hoffman in view of US 6,611,867 B1 (Bowman-Amuah). These dependent claims distinguish the cited combination for the same reasons as their respective base claims, i.e., setting the priority for a unicast packet in response to a destination parameter, and setting the priority for a multicast packet in response to a source parameter. Withdrawal of the rejections of claims 11, 16 and 18 is therefore requested.

Applicant respectfully submits that all of the rejections are inadequately supported, and requests that any future rejections include articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. As stated in MPEP 2141, the key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reasons why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court, quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. Although Applicant has plainly stated what is believed to be novel and why, the examiner has responded with rejections of those features including nothing more

than a list of passages and figures. Applicant is left to guess which features the examiner imagines to be analogous to claim elements. Applicant submits that if the examiner had attempted to match features from Hill to the claim elements then the examiner would have recognized that Hill fails to disclose the features, and this prosecution would be considerably more efficient. In any event, the next action cannot be made final in view of the inadequacy of the rejections.

### **Conclusion**

For the reasons stated above, this application is now considered to be in condition for allowance and such action is earnestly solicited. Should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

August 28, 2008  
Date

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Docket No. 120-081  
Dd: 8/30/2008